

In the United States District Court

MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

ARZELL WILKERSON,

Plaintiff,

v.

SUBPOENA IN A CIVIL CASE

CAPITAL ONE,

CASE NUMBER: 2:05-cv-1192-SRW

Defendant.

TO: Montgomery County Probate Court, Attn: Custodian of Records, 100 S. Lawrence Street, Montgomery, Alabama 36104

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

SEE EXHIBIT "A" ATTACHED HERETO

PLACE

Starnes & Atchison LLP, Seventh Floor, 100 Brookwood Place, Post Office Box 598512, Birmingham, Alabama 35259-8512

DATE AND TIME

March 8, 2006

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

February 16, 2006

Ramsey Duck, Esq., Attorney for the Defendant

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Starnes & Atchison LLP, Seventh Floor, 100 Brookwood Place, Post Office Box 598512
Birmingham, Alabama 35259-8512
Telephone: (205) 868-6000

See Rule 45, Federal Rules Civil Procedure, Parts C & D attached

PROOF OF SERVICE		
SERVED	DATE 2/17/06	PLACE 100 S. Lawrence St., Montgomery AL
SERVED ON (PRINT NAME) Montgomery Co. Probate		MANNER OF SERVICE CERT. MAIL 7001 2510 0006 5881 6620
SERVED BY (PRINT NAME) Vicki Parker		TITLE PARALEGAL

Declaration of Server

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2/28/06
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

P.O. Box 598512
B'Ham, AL 35259-8512

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without under hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Montgomery Co. Probate
100 S. Lawrence St.
Montgomery, AL
36104

2. Article Number (Copy from service label)

7001 2510 0006 5881 6620

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

LOMMAIE JOHNSON

C. Signature

LOMMAIE JOHNSON

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

FEB 21 2006

FEB 27 2006

3. Service Type

- ☒ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

poena to produce documents shall produce them as they are
ness or shall organize and label them to correspond with the

a subpoena is withheld on a claim that it is privileged or
paration materials, the claim shall be made expressly and shall
of the nature of the documents, communications, or things not
ible the demanding party to contest the claim.

RULE 45 SUBPOENA
EXHIBIT "A"

Any and all records or documents that reflect, refer and/or relate in any way to Arzell Wilkerson; **DOB:xx-xx-1943** and **SSN: xxx-xx-4527**, including but not limited to any notes, correspondence, emails, faxes, reports, data compilations, payment records and/or any other documents reflecting any information concerning the above named individual, in whatever medium such documents or records may be maintained.

Any and all documents or transaction receipts for payments made using the VISA credit card ending in **XXXX-XXXX-XXXX-7181**.

If you are unable to locate documents, please confirm this fact in writing in the form of a letter addressed to the Issuing Officer named on the face of the subpoena, stating the same and explaining reasons for the inability to produce the documentation.